

**REMARKS**

Claims 1-76, 78-80, and 82-99 are pending in this application. The final Office Action mailed October 19, 2005 rejected claims 1-76, 78-80, and 82-99. No claims have been amended in the present response. No new matter has been added. For the reasons discussed in detail below, Applicants submit that the pending claims are patentable over the references cited by the Examiner. Applicants respectfully request that the Examiner pass this application to issue.

**Rejection of Claims Under 35 U.S.C. § 103 over Wasilewski and Jackowski**

The Office Action rejected claims 1-14, 16-21, 23-25, 29-30, 36, 39-40, 42, 48-50, 53-57, 61-63, 65-70, 73-76, 78-80, 84-89, and 94-97 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,420,866 to Wasilewski ("Wasilewski") in view of U.S. Patent No. 6,141,686 to Jackowski et al ("Jackowski"). Applicants respectfully traverse these rejections.

The cited prior art references do not disclose or suggest all of the limitations of the amended claims. For example, Applicants respectfully disagree that Jackowski discloses or suggests determining if a payload portion is to be encrypted by examining the payload portion, especially to recognize a predefined data type as required by the claims.

In particular, Jackowski does not examine the payload portion of the data. Instead, Jackowski describes an application-classifier plugin that intercepts network traffic at above the client's TCP/IP stack and associates applications and users with the network packets. (Jackowski, Abstract). Jackowski's interceptor is coupled between a high-level network socket library and a lower interface that formats data for transmission over the network. (See Jackowski, Col 4, lns. 51-59; See also Figures 4-5). An examiner is coupled to the interceptor. The examiner examines network events and collects information that includes a process identifier of a running instance of a high-level user application. (See Jackowski, Col 4, lns. 61- Col 5, lns. 1-6). Jackowski points out that such high-level applications (that are running on the client) send and receive information to a network by making calls to Winsock-2 library. These calls use an applications-programming interface (API). (Jackowski, Col 7, lns. 60-62). Events then are generated by the Winsock-2 library

when a high-level application starts or ends, when it opens or closes a socket, when the connection state of the socket changed, and when data is sent or received. (Jackowski, Col 9, lns. 37-43). The unique process ID for the Winsock high-level applications that originated the event is stored. The name of the high-level application is retrieved using the Win32 API library call. (Jackowski, Col 10, lns. 58-64). Information about the high-level applications is stored in tables (current tables and historical tables). (Jackowski, Col 11, lns. 47-55; See also Figure 8).

Thus, as can be seen, Jackowski obtains information about network packets not by examining the payload portion of the data as claimed, but rather by monitoring high-level applications running on the client and events that employ the Winsock library. Jackowski examines its tables when an event is detected and makes a decision on how to manage the packets based on examining the tables to determine the high-level application associated with the packet. (Jackowski, Col 15, lns. 8-13; Col. 15, lns. 27-33; and Col. 16, lns. 1-4). Therefore, Jackowski does not examine the payload portion of the data as required by the claims.

Moreover, because Jackowski does not examine the payload portion of the data, Jackowski cannot determine whether to encrypt the payload by recognizing a predefined data type based on such an examination. Instead, Jackowski examines the high-level application types, such as financial and e-mail applications, to determine whether to encrypt packets. (Jackowski, Col. 17, lns. 28-32). It is well known that various high-level applications may generate payloads of different data types. Thus, by making a determination based on the high-level application, Jackowski does not determine whether to encrypt a packet based on recognizing a predefined data types as required by the claims. Because Jackowski makes decisions based instead on the high-level application, and not the data types, Jackowski does not disclose or suggest the limitations of the Applicants' independent claims. Therefore, for at least these reasons, the rejections should be withdrawn.

There is also no suggestion or motivation to combine Jackowski with Wasilewski. Wasilewski is directed to a transport layer (layer 4) method for transmitting conditional access information to decoders that will receive encrypted data such as subscription television broadcasts. (See Wasilewski, Col. 1, lns. 35-38, col. 1, ln. 61 through col. 2, ln. 3, and Col. 4, ln. 51 through

Col. 5, ln. 62.) Further, Wasilewski does not disclose or suggest that a determination is needed on whether to encrypt a payload. Wasilewski specifies that conditional access information is encryption related information. (Wasilewski, Col. 4, lns. 9-10). For the conditional access information to be of any use, the payload data, such as a subscription television broadcast, must be encrypted. Thus, there is no motivation to modify or combine Wasilewski with Jackowski which both require a determination on whether to encrypt certain payload data or not. Therefore, for at least this reason, the rejections should be withdrawn.

For the reasons above, the rejection under 35 U.S.C. § 103(a) of independent Claims 1, 17, 36, 53, 61, 67, 73, 78, 86, and 97 over Wasilewski in view of Jackowski should be withdrawn. Dependent claims are patentable for at least the same reasons as the independent claims from which the dependent claims depend. Accordingly, the rejection under 35 U.S.C. § 103(a) of dependent Claims 2-14, 16, 18-21, 23-25, 29, 30, 39, 40, 42, 48-50, 54-57, 62, 63, 65, 66, 68-70, 74-76, 79, 80, 84, 85, 87-89, and 94-96 should also be withdrawn.

### CONCLUSION

By the foregoing explanations, Applicants believe that this response has responded fully to all of the concerns expressed in the Office Action, and believes that it has placed each of the pending claims in condition for immediate allowance. Accordingly, the Examiner is respectfully requested to pass this application to issue. Should any further aspects of the application remain unresolved, the Examiner is invited to telephone applicant's attorney at the number listed below.

Dated: December 16, 2005

Respectfully submitted,

By J. Wiegand  
Jamie L. Wiegand  
Registration No.: 52,361  
DARBY & DARBY P.C.  
P.O. Box 5257  
New York, New York 10150-5257  
(206) 262-8900 (212) 527-7701 (Fax)  
Attorneys/Agents For Applicant